

JOURNAL OF THE HOUSE.

Thursday, November 1, 2007.

Met according to adjournment, at eleven o'clock A.M., with Mr. Petrolati of Ludlow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Eternal God, as we begin a new month of the year, November, we enter into a busy season of the year. Many demands are made upon our time and energies. In Your goodness help us to organize our daily agenda during this busy season, so that we have sufficient time to serve You, our families and our constituents in a faithful manner. This is also the honest time of the year. We pause to thank You for all the blessings which we enjoy in this country. We are grateful for our constitutional rights; civil, human and religious, and for the great opportunities we have to use our human talents and material resources in a productive manner.

Prayer.

Grant Your blessings to the Speaker, the members and employees of the House of Representatives, and their families. Amen.

At the request of the Chair (Mr. Petrolati), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Jones of North Reading and other members of the House) honoring the Arc of East Middlesex on the occasion of its fiftieth anniversary;

Arc of East
Middlesex.

Resolutions (filed by Mr. Falzone of Saugus and other members of the House) on the observance of "Reusable Bag Day";

Reusable
Bag Day.

Resolutions (filed by Messrs. Puppolo of Springfield and Rush of Boston) recognizing November 2007 as Thrombosis Month in Massachusetts;

Thrombosis
Month.

Resolutions (filed by Mr. Smola of Palmer) on the twentieth anniversary of the Quaboag Valley Hospice; and

Quaboag
Valley
Hospice.

Resolutions (filed by Mr. Vallee of Franklin) honoring Colonel Steven N. Wickstrom on his promotion to the rank of Brigadier General in the United States Army;

Steven N.
Wickstrom.

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of the same member, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Statement Concerning Representative Driscoll of Braintree.

A statement of Mr. Rogers of Norwood concerning Mr. Driscoll of Braintree, was spread upon the records of the House, as follows:

Statement
concerning
Representative
Driscoll of
Braintree.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Driscoll of Braintree, will not be present in the House Chamber for today's sitting due to a death in his family in Cork Ireland. Any roll calls that he may miss today is due entirely to the reason stated.

Statement Concerning Representative Kaprielian of Watertown.

A statement of Mr. Rogers of Norwood concerning Ms. Kaprielian of Watertown, was spread upon the records of the House, as follows:

Statement
concerning
Representative
Kaprielian of
Watertown.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kaprielian of Watertown, will not be present in the House Chamber for today's sitting due to personal business. Any roll calls that she may miss today is due entirely to the reason stated.

Statement Concerning Representative Naughton of Clinton.

A statement of Mr. Rogers of Norwood concerning Mr. Naughton of Clinton, was spread upon the records of the House, as follows:

Statement
concerning
Representative
Naughton of
Clinton.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Naughton of Clinton, will not be present in the House Chamber for the remainder of today's sitting due to family child care. Any roll calls that he may miss today is due entirely to the reason stated.

Statement Concerning Representative Rush of Boston.

A statement of Mr. Rogers of Norwood concerning Mr. Rush of Boston, was spread upon the records of the House, as follows:

Statement
concerning
Representative
Rush of
Boston.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Rush of Boston, will not be present in the House Chamber for today's sitting due to his recent marriage and honeymoon. Any roll calls that he may miss today is due entirely to the reason stated.

Communication.

A communication from the Comptroller of the Commonwealth (under the provisions of Section 12 of Chapter 7A of the General Laws) submitting the Statutory Basis Financial Report for the fiscal year ending June 30, 2007, was placed on file.

Statutory
Basis
Financial
Report.

Petition.

Mr. D'Amico of Seekonk presented a petition (subject to Joint Rule 12) of Steven J. D'Amico and others (by vote of the town) relative to an exchange of land for water supply purposes in the town of Swansea; and the same was referred, under Rule 24, to the committee on Rules.

Swansea,
land
exchange.

Papers from the Senate.

A Bill authorizing bilingual ballots in municipal elections in the city of Worcester (Senate, No. 2362) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Worcester,
bilingual
ballots.

A Bill providing for a study of the Commonwealth's job classification system by the Human Resources Division (Senate, No. 2386) (on Senate, No. 1858), passed to be engrossed by the Senate, was read; and it was referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Job
classifications,
study.

Reports of Committees.

By Ms. Coakley-Rivera of Springfield, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill relative to sufficient services within the Department of Mental Retardation (House, No. 106).

Mental
Retardation,
services.

By the same member, for the same committee, on a petition, a Bill to assess the impact of the public welfare system on the health and well-being of children (House, No. 118, changed in lines 11 to 15 by striking out the sentence contained in those lines and inserting in place thereof the following sentence: "Said annual child health assessment statement shall be submitted to the House and Senate Ways and Means committees, the joint committee on Children, Families and Persons with Disabilities, the joint committee on Health Care Financing and the joint committee on Education on April 1 of each year.").

Children,
well-being.

By the same member, for the same committee, on a petition, a Bill relative to school served food products (House, No. 123).

School food
products.

By the same member, for the same committee, on a petition, a Bill relative to discharge from the Massachusetts Hospital School (House, No. 132).

Massachusetts
Hospital
School.

By the same member, for the same committee, on a petition, a Bill establishing the children's behavioral health research and evaluation institute (House, No. 134).

Children's
behavioral
research.

By the same member, for the same committee, on a petition, a Bill establishing an independent office of quality assurance for mentally retarded persons (House, No. 136).

Mental
health,
quality
assurance.

By the same member, for the same committee, on a petition, a Bill relative to services for older persons who are mentally retarded (House, No. 137).

Elderly,
mentally
retarded.

By the same member, for the same committee, on a petition, a Bill to establish an office of youth development (House, No. 143).

Youth
development.

By the same member, for the same committee, on a petition, a Bill relative to caregiver medical and educational consent (House, No. 1151, changed by adding the following sentence: "Furthermore, nothing in this section shall relieve professionals licensed under chapter 112 of the General Laws for violations of any applicable law or regulation for failure to meet the standard of care when providing treatment in accordance with any such written instrument.").

Minors,
caregivers.

By the same member, for the same committee, on a petition, a Bill relative to the authority of the Disabled Persons Protection Commission pursuant to chapter 19C (House, No. 2081).

Disabled
Persons
Commission.

Disabled
Persons
Commission.

ri

Home
services.

Youth,
year of
service.

Grandparents.

Fishing
sectors.

Bill
re-enacted.

Bills
enacted.

By the same member, for the same committee, on a petition, a Bill relative to the definition of disabled person as used by the Disabled Persons Protection Commission (House, No. 2082).

By the same member, for the same committee, on a petition, a Bill relative to the authority of the Disabled Persons Protection Commission pursuant to chapter 19C (House, No. 2083).

By the same member, for the same committee, on a petition, a Bill establishing interagency agreements to provide home and community-based services (House, No. 2195, changed in section 3, in lines 15, 16 and 17, by striking out the words "Joint Committee on Ways and Means, Joint Committee on Public Health and Joint Committee on Children and Families" and inserting in place thereof the words "House and Senate committees on Ways and Means and the joint committee on Children, Families and Persons with Disabilities.").

Severally referred, under Joint Rule 1E, to the committee on Health Care financing.

By Ms. Coakley-Rivera of Springfield, for the committee on Children, Families and Persons with Disabilities, on a petition, a Resolve creating a study into the promotion of a year of service by young people in the Commonwealth (House, No. 126).

By the same member, for the same committee, on a petition, a Bill establishing the grandparents raising grandchildren commission (House, No. 617).

Severally read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Emergency Measure.

The engrossed Bill establishing commercial fishing sectors (see House, No. 4318, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 9 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment) was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bills.

Engrossed bills

Providing that certain physical conditions shall be presumed to have been suffered in the line of duty (see House, No. 2578);

Relative to the Charter of the town of Chelmsford (see House, No. 4007); and

Exempting the positions of police chief and fire chief in the town of North Andover from the civil service law (see House, No. 4212); (Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

The engrossed Bill relative to the licensing requirements for certain tidelands (see House, No. 4324), having been rightly and truly prepared for final passage, was considered.

Pending the question on passing the bill to be enacted, Mr. Smizik of Brookline moved that Rule 40 be suspended; and the motion prevailed. The same member then moved that the bill be amended by inserting before the enacting clause the following emergency preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith authorize a regulatory exemption for certain landlocked tidelands from license requirements, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

The amendment was adopted. Sent to the Senate for concurrence.

Recess.

At twenty-six minutes before twelve o'clock noon, on motion of Mr. Scaccia of Boston (Mr. Petrolati of Ludlow being in the Chair), the House recessed until ten minutes before twelve o'clock noon; and at ten minutes after twelve o'clock noon the House was called to order with the Speaker in the Chair.

Special Communication.

The following communication, together with returns of votes and schedules therein referred to, was received from the Secretary of the Commonwealth, to wit:—

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY
STATE HOUSE, BOSTON 02133

October 31, 2007.

To the Honorable House of Representatives:

I have the honor to lay before you the returns of votes cast at the special election held in this Commonwealth on the twenty-third day of October, 2007, for Representative in the General Court, 1st Suffolk District, together with schedules showing the number of ballots which appear to have been cast for each person voted for.

These returns have been duly canvassed by the Governor and Council, and are now transmitted for examination by the House of Representatives, as required by the Constitution.

Very truly yours,

WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth.

The communication was read; and, there being no objection, it was placed on file.

Tidelands,
licensing
requirements.

Recess.

Returns of
votes for
Representa-
tive,
First Suffolk
District.

*Member Qualified.*House
committee.

The Speaker appointed a committee consisting of Representatives DeLeo of Winthrop, Jones of North Reading, Puppolo of Springfield, Haddad of Somerset and Donato of Medford to escort His Excellency the Governor and a member of the Executive Council to the Chamber for the purpose of administering the oath of qualification to Representative-elect Carlo Basile of Boston.

Representative
Carlo
Basile of
Boston,
qualification.

His Excellency the Governor, Deval Patrick, accompanied by the the Honorable Marilyn Petitto Devaney, member of the Executive Council, then came in, under the escort of the Sergeant-at-Arms; the oath and affirmation required by the Constitution and laws were administered by the Governor to the member-elect then present, and was subscribed by him; after which His Excellency declared that the member was duly qualified to enter upon the discharge of his duties.

After brief remarks by the qualified member, the Speaker assigned Mr. Basile to Seat No. 45.

His Excellency the Governor and Councillor Devaney then departed the Chamber under escort of the Sergeant-at-Arms.

Recess.

Recess.

At twenty-seven minutes before one o'clock P.M., on motion of Mr. Petrolati of Ludlow (the Speaker being in the Chair), the House recessed until two o'clock P.M.; and at that time the House was called to order with the Donato of Medford in the Chair.

*Emergency Measure.*Tidelands,
licensing
requirements.

The engrossed Bill relative to the licensing requirements for certain tidelands (see House, No. 4324, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 3 to 0. Sent to the Senate for concurrence.

Recess.

At one minute after two o'clock P.M., the Chair (Mr. Donato of Medford) declared a recess subject to the call of the Chair; and nineteen minutes after two o'clock P.M. the House was called to order with the Petrolati of Ludlow in the Chair.

The Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House), was put upon its final passage.

Bill enacted
(land taking),
yea and nay
No. 201.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 201 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bill — Land Takings.

The engrossed Bill authorizing the town of Nantucket to grant an easement over town owned property (see House, No. 4265) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Nantucket,
land use.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 154 members voted in the affirmative and 0 in the negative.

Bill enacted
(land taking),
yea and nay
No. 202.**[See Yea and Nay No. 202 in Supplement.]**

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill authorizing the town of Nantucket to use, convey or otherwise dispose of certain land in the town of Nantucket for municipal purposes (see House, No. 4266) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Nantucket,
land use.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 154 members voted in the affirmative and 0 in the negative.

Bill enacted
(land taking),
yea and nay
No. 203.**[See Yea and Nay No. 203 in Supplement.]**

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Reports of Committees.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to child abuse and neglect (House, No. 4191) ought to pass with an amendment substituting therefor a Bill with the same title (House, No. 4333). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

Child abuse
and
neglect.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Rogers of Norwood, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means was adopted; and the substituted bill was ordered to a third reading.

Subsequently, under suspension of rules, on further motion of Mr. Rogers, the bill was read a third time.

After debate on the question on passing the bill to be engrossed, Mr. Swan of Springfield moved to amend it in section 20 by adding the following paragraph:

“(17) Comprehensive Youth Development services”.

The amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Rogers of Norwood; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 204 in Supplement.]

Therefore the bill (House, No. 4333, printed as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Motions to Discharge Certain Matters in the Orders of the Day.

Mr. Binienda of Worcester moved that the House Bill relative to property tax classification in cities and towns (House, No. 3119, changed), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill, having been reported by the committee on Bills in the Third Reading to be correctly drawn, then was read a third time.

After debate on the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of the same member and on the roll call 125 members voted in the affirmative and 27 in the negative.

[See Yea and Nay No. 205 in Supplement.]

Therefore the bill (House, No. 3119, changed) was passed to be engrossed. Sent to the Senate for concurrence.

Mr. Costello of Newburyport moved that the Senate Bill relative to public safety at reproductive health care facilities (Senate, No. 1353, amended), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill then was read a second time; and it was ordered to a third reading.

Subsequently (Mrs. Harkins of Needham being in the Chair), under suspension of rules, on motion of Mr. Costello, the bill was read a third time.

The committee on Bills in the Third Reading reported recommending that the bill be amended by striking out section 1. The report was accepted; and the amendment was adopted.

Mr. Costello then moved that the bill be amended by inserting before section 2 (as printed) the following section:

“SECTION 1. Section 120E1/2 of chapter 266 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word ‘within’, in line 2, the following words:— or upon the grounds of.”

The amendment was adopted.

After debate on the question on passing the bill, as amended, to be engrossed, in concurrence, Ms. Grant of Beverly asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Harkins), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Bill passed to
be engrossed,
yea and nay
No. 204.

Property
taxes,
classification.

Bill passed to
be engrossed,
yea and nay
No. 205.

Health
facilities,
buffer
zones.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 150 members were recorded as being in attendance.

[See Yea and Nay No. 206 in Supplement.]

Therefore a quorum was present.

After remarks, the sense of the House was taken by yeas and nays, at the request of Miss Garry of Dracut; and on the roll call 122 members voted in the affirmative and 28 in the negative.

[See Yea and Nay No. 207 in Supplement.]

[Mr. Rushing of Boston answered “Present” in response to his name.]

Therefore the bill (Senate, No. 1353, amended) was passed to be engrossed, in concurrence.

Sent to the Senate for concurrence in the amendments adopted by the House.

Order.

On motion of Mr. DiMasi of Boston,—

Ordered. That when the House adjourns today, it adjourn to meet on Monday next at eleven o’clock A.M.

Quorum,
yea and nay
No. 206.

Bill passed to
be engrossed,
yea and nay
No. 207.

Next
sitting.

Representatives Jones of North Reading, Barrows of Mansfield, DiMasi of Boston and Harkins of Needham then moved that as a mark of respect to the memory of Barbara C. Hyland, a member of the House from Foxborough from 1992 to 2000, inclusive, the House adjourn; and after a moment of silent reflection in her memory the motion prevailed.

Accordingly, without proceeding to consideration of the remaining matters in the Orders of the Day at ten minutes before six o’clock P.M., on motion of Mr. Donato of Medford (Ms. Harkins of Needham being in the Chair), the House adjourned, to meet on Monday next at eleven o’clock A.M., in an Informal Session.